

ORIGINAL

FILED

September 4 2009

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 09-0312

STATE OF MONTANA,

Plaintiff and Appellee,

v.

CODY WILLIAM MARBLE,

Defendant and Appellant.

FILED

SEP 04 2009

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

**MOTION FOR EXTENSION OF TIME
AND AFFIDAVIT IN SUPPORT**

COMES NOW, Jim Wheelis, Chief Appellate Defender, and respectfully requests an extension of time until November 13, 2009, in which to prepare, file, and serve the Appellant's opening brief in the above-entitled matter. In support of this motion, undersigned counsel respectfully submits the following affidavit.

Respectfully submitted this 4th day of September, 2009.

OFFICE OF THE STATE PUBLIC DEFENDER
Appellate Defender Office
301 South Park, Room 568
P.O. Box 200145
Helena, MT 59620-0145

By: _____

JIM WHEELIS

Chief Appellate Defender

STATE OF MONTANA)
 : ss.

County of Lewis and Clark)

I, Jim Wheelis, being first duly sworn upon my oath, depose and state as follows:

1. I am a licensed, practicing attorney in the State of Montana, and am currently employed by the Office of State Public Defender, Appellate Defender Office, as the Chief Appellate Defender.

2. In my capacity as Chief Appellate Defender, I have assigned Jennifer Hurley to assist me in the above-entitled matter.

3. The Appellant's opening is presently due on September 14, 2009.


4. The undersigned requests an extension until November 13, 2009.

This is the first request for an extension, but counsel requests 60 days in which to file the opening brief because the legal intern assisting the undersigned with this cause will be on maternity leave until October 22, 2009. The undersigned will retire from this office on December 31, 2009, and has eleven cases remaining to brief between now and retirement. All the assistant appellate counsel have been assigned an average of 15 actively briefing cases each. Budget constraints prohibit assigning cases to contract counsel except where a conflict exists and in abuse and neglect matters.

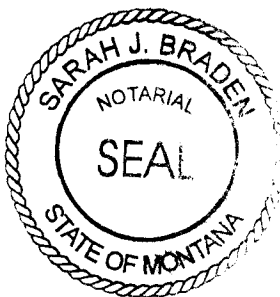
5. I will work diligently to complete the matter in the time requested.

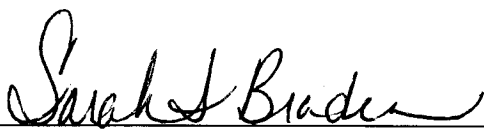

6. Opposing counsel has been contacted concerning this motion and does not object.

7. Further your affiant sayeth naught.


Jim Wheelis

SUBSCRIBED AND SWORN to before me this 4th day of
September, 2009.




Sarah J. Braden
Notary Public for the State of Montana
Residing at 
My commission expires 1/25/2011

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the foregoing
Motion for Extension of Time and Affidavit in Support to be mailed to:

STEVE BULLOCK
Montana Attorney General
MARK MATTIOLI
Assistant Attorney General
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401

FRED R. VAN VALKENBURG
Missoula County Attorney
200 West Broadway
Missoula, MT 59802

CODY MARBLE 2044197
Montana State Prison
700 Conley Lake Road
Deer Lodge, MT 59722

DATED: _____

9-4-2009

